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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,979	07/30/2003	Alfred Hardy Sullivan JR.	C&A024U	9505

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
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EXAMINER

STAICOVICI, STEFAN

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,979

Applicant(s)

SULLIVAN ET AL.

Examiner

Stefan Staicovici

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicants' amendment filed August 25, 2005 has been entered. Claims 1-13 and 18-19 are pending in the instant application.

Election/Restrictions

2. This application contains claims 1-13 drawn to a non-elected invention. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 18 is rejected under 35 U.S.C. 102(e) as being anticipated by Gribble *et al.* (US 2004/0109992).

Gribble *et al.* (US 2004/0109992) teach the claimed process for forming a trim panel including, providing a fabric substrate (cloth), applying a polyurethane dispersion that adheres

to said fabric without the need of adhesives of flame lamination and heating said polyurethane dispersion to form a foam backing layer having a density of 0.035-0.16 kg/m³ and a thickness of 3.6 mm (see Abstract and, paragraphs [0002], [0012] and [0071]). Further, Gribble *et al.* (US 2004/0109992) teach hot lamination molding of a polyethylene film (plastic substrate) directly to said foam backing layer without the need of a non-permeable layer (see paragraphs [0007] and [0011]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gill *et al.* (US Patent No. 5,124,368) in view of JP 02-143842.

Gill *et al.* ('368) teach the basic claimed process for forming a trim panel including, providing a laminate having a fabric with a polyurethane foam layer backing, placing said laminate in a mold and injecting a foam (molded plastic substrate) onto said laminate without the need of an additional barrier layer (see col. 3, lines 11-38 and col. 15, lines 43-44).

Regarding claims 18-19, although Gill *et al.* ('368) teach a cloth having a polyurethane foam layer backing, Gill *et al.* ('368) do not teach that said polyurethane backing is a polyurethane dispersion that is applied without the use of adhesives or flame lamination. JP 02-

143842 teaches using a polyurethane dispersion to form a cushioning/vibration damping panel without using adhesives. Therefore, it would have been obvious for one of ordinary skill in the art to have provided the polyurethane dispersion without using adhesives as taught by JP 02-143842 to form a foam layer in the process of Gill *et al.* ('368) because, JP 02-143842 teaches that said polyurethane dispersion provides for obtaining a low cost cushioning/vibration product, hence providing for an improved product and also because both reference solve the problem of providing improved cushioning/vibration characteristics.

7. Claims 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gribble *et al.* (US 2004/0109992) in view of Applicants' Admitted Prior Art.

Gribble *et al.* (US 2004/0109992) teach the basic claimed process as described above.

Regarding claim 19, although Gribble *et al.* (US 2004/0109992) teach laminating a polymeric film to said foam backed fabric, Gribble *et al.* (US 2004/0109992) does not teach injection molding a plastic layer to said foam backed fabric. However, injection molding a plastic substrate, such as a foam layer, is well known as evidenced by Applicants' Admitted Prior Art (see page 1, lines 24-27). Therefore, it would have been obvious for one of ordinary skill in the art to have injection molded a plastic substrate as taught by Applicants' Admitted Prior Art against said foam backed fabric in the process of Gribble *et al.* (US 2004/0109992) because, Applicants' Admitted prior Art teaches that such a process allows for forming a variety of useful products, hence providing for a more versatile and economical process for making automotive trim panels by forming the plastic substrate and molding the fabric in a single step process and, also because of its well know status.

Response to Arguments

8. Applicants' arguments filed August 25, 2005 have been considered.

9. Applicants argue that "Gribble is not teaching anything about the ability to avoid the use of film ...where one might include the additional step of molding a plastic substrate which then will engage with the foam and potentially strike-through the foam and through the textile layer." Further, Applicants argue that "Gribble does not teach or suggest that cloth with dispersion would allow for molding behind a plastic substrate without the use of a barrier film" (see page 8 of the amendment filed 8/25/2005). In response, it is noted that Gribble *et al.* (US 2004/0109992) specifically teach a process that allows for applying a polyurethane dispersion that adheres to a fabric without the need of adhesives or flame lamination and then hot lamination molding of a polyethylene film (plastic substrate) *directly* (emphasis added) to said foam backing layer. Hence, it is submitted that because molding of the polyethylene film is "directly" to the foam layer, then a non-permeable layer is not required. Further, it is noted that under MPEP §2144, "[I]t is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant. In re Linter, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972).

Applicants argue that "[N]one of the cited references, nor the Applicants' admitted prior art, taken alone or in combination, teach or suggest molding a plastic substrate to said polyurethane (dispersion) backing layer of said cloth...by injection molding" (see page 10 of the amendment filed 8/25/2005). In response, it is noted that Gill *et al.* ('368) specifically teach in col. 15, lines 40-45, injecting into the shaped mold inside the exterior covering, which is an upholstery material (fabric) fluid reacting intermediates which forms a plastic core (substrate).

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Further, it is noted that injection molding a plastic substrate, such as a foam layer, is well known as evidenced by Applicants' Admitted Prior Art (see page 1, lines 24-27).

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Staicovici, Ph.D. whose telephone number is (571) 272-1208. The examiner can normally be reached on Monday-Friday 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stefan Staicovici, PhD

A handwritten signature in black ink, appearing to read 'Stefan Staicovici', written in a cursive style.

Primary Examiner

10/31/05

AU 1732

October 31, 2005